

U.S. Patent Application Serial No. 10/691,960
Amendment filed October 12, 2006
Reply to OA dated August 2, 2006

REMARKS

Claims 2 - 6 are currently pending in this patent application, claim 6 being an independent claim.

Claim 6 has been amended in order to more particularly point out, and distinctly claim the subject matter to which the applicant regards as his invention. The applicant respectfully submits that no new matter has been added. It is believed that this Amendment is fully responsive to the Office Action dated August 2, 2006.

In the outstanding Office Action, the Examiner reiterates the following rejections: (1) claims 2, 3, 5 ("as dependent upon 6, 2, and 3"), and independent claim 6 stand rejected under 35 USC §102(b) as being anticipated by Bohrer; and (2) claims 4 and 5 ("as dependent upon claim 4") stand rejected under 35 USC §103(a) based on Bohrer. Also, the Examiner basically repeats his reasons for rejecting the claims as set forth in his last Office Action dated March 8, 2006.

The applicant respectfully requests reconsideration of these rejections.

The applicant's claimed invention, as now set forth in claim 6, is directed to a hydraulically-driven vehicle having a hydraulic motor (2); and a switching means for changing a maximum driving force of the hydraulic motor (2) in order to obtain efficient performance of the hydraulically-driven vehicle in any working condition thereof. As further recited in claim 6, the claimed hydraulic motor (2) is driven by oil pressure discharged from a hydraulic pump (1) to propel the hydraulically-driven vehicle, and the claimed switching means is switched by an operator of the hydraulically-driven vehicle during operation of the hydraulically-driven vehicle in order to obtain efficient performance of the hydraulically-driven vehicle in the working conditions being encountered by the hydraulically-driven vehicle, the hydraulic motor being driven in a continuous stepless manner.

Significant claimed structural arrangements, as now set forth in claim 6, include the claimed switching means for changing a maximum driving force of the hydraulic motor (2) in order to obtain efficient performance of the hydraulically-driven vehicle in any working condition thereof; and the claimed hydraulic motor (2) being driven by oil pressure discharged from a hydraulic pump (1) to propel the hydraulically-driven vehicle. Additional significant claimed structural arrangements, now set forth in claim 6, include the claimed switching means being switched by an operator of the hydraulically-driven vehicle during operation of the hydraulically-driven vehicle in order to obtain efficient performance of the hydraulically-driven vehicle in the working conditions being encountered by the hydraulically-driven vehicle, the hydraulic motor being driven in a continuous stepless manner.

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In the outstanding Office Action, the Examiner also takes the position that the applicant's following arguments in the Amendment filed May 26, 2006 are without the corresponding support in the specific language of the claims:

(1) the claimed switching means changes the maximum driving force of the hydraulic motor in order to obtain efficient performance of the hydraulically-driven vehicle in any of the working conditions thereof; and

(2) the claimed hydraulic motor is driven in a continuous stepless gear shifting manner.

As to the first item, above, the applicant has amended independent claim 6 so as to more particularly recite that the claimed switching means changes a maximum driving force of the claimed hydraulic motor "in order to obtain efficient performance of the hydraulically-driven vehicle in any working condition thereof."

As to the second item, above, the applicant submits that the teachings of Bohrer do not include the claimed hydraulic motor being driven "in a continuous stepless manner," as recited in claim 6.

It is further submitted that the inclusion of the additional language in independent claim 6 (i.e., "in order to obtain efficient performance of the hydraulically-driven vehicle in any working condition thereof") does not raise a new issue that will require further consideration and/or search

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on the part of the Examiner because such claimed subject matter has been considered as not taught in the Bohrer reference, as acknowledged in the first full paragraph, item 8, page 4 of the March 8, 2006 Office Action.

In view of the above, not all of the claimed elements, as now set forth in independent claim 1 (and claims 2, 3 and 5 that depend therefrom), are found in exactly the same situation and united in the same way to perform the identical function in Bohrer's apparatus. Thus, there can be no anticipation under 35 USC §102(b) of the applicant's claimed hydraulically-driven vehicle based on Bohrer. Accordingly, the withdrawal of the outstanding anticipation rejection under 35 USC §102(b) based on Bohrer is in order, and is therefore respectfully solicited.

Also, for the reasons discussed above, a person of ordinary skill in the art would not have found the applicant's claimed invention, as now recited in independent claim 1 from which claims 4 and 5 depend, obvious under USC §103(a) based on the teachings of Bohrer. Accordingly, the withdrawal of the outstanding anticipation rejection under 35 USC §103(a) based on Bohrer is in order, and is therefore respectfully solicited.

In view of the aforementioned amendments and accompanying remarks, claims, as amended, are in condition for allowance, which action, at an early date, is requested.

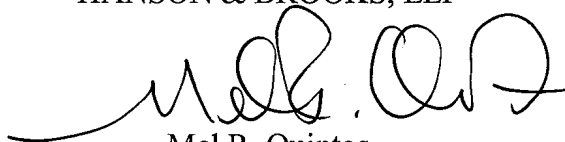
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If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicant's undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, the applicant respectfully petitions for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper to Deposit Account No. 01-2340.

Respectfully submitted,

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